

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

VERDELL MARTIN,

Petitioner,

v.

PEOPLE OF THE STATE OF
CALIFORNIA,

Respondents.

No. 2:21-cv-2121 CKD P

ORDER AND

FINDINGS AND RECOMMENDATIONS

By order filed March 1, 2022, petitioner's habeas application was dismissed and thirty days' leave to file an amended application was granted. The thirty-day period has now expired, and petitioner has not responded to the court's order.

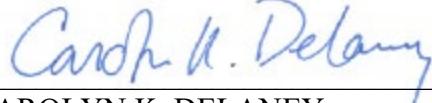
Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court assign a district court judge to this case; and

IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, petitioner may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." In his objections petitioner

1 may address whether a certificate of appealability should issue in the event he files an appeal of
2 the judgment in this case. See Rule 11, Federal Rules Governing Section 2254 Cases (the district
3 court must issue or deny a certificate of appealability when it enters a final order adverse to the
4 applicant). Where, as here, a habeas petition is dismissed on procedural grounds, a certificate of
5 appealability “should issue if the prisoner can show: (1) ‘that jurists of reason would find it
6 debatable whether the district court was correct in its procedural ruling;’ and (2) ‘that jurists of
7 reason would find it debatable whether the petition states a valid claim of the denial of a
8 constitutional right.’” Morris v. Woodford, 229 F.3d 775, 780 (9th Cir. 2000) (quoting Slack v.
9 McDaniel, 529 U.S. 473, 484 (2000)). Petitioner is advised that failure to file objections within
10 the specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951
11 F.2d 1153 (9th Cir. 1991).

12 Dated: April 14, 2022



13 CAROLYN K. DELANEY
14 UNITED STATES MAGISTRATE JUDGE
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